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BEFORE THE
FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL
COUNSEL

SENSITIVE

Jon A. Zahm

OSCO IL 61274

Complainant,

MUR # 6250

v.

Ethan Hastert
P.O. Box 576
Geneva, IL 60134,

Respondent.

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Ethan Hastert ("Respondent") for multiple violations of the Federal Election Campaign Act, as described below.

A. FACTS

Ethan Hastert is a candidate for the United States House of Representatives in Illinois's Fourteenth Congressional District. He is the son of former House Speaker Dennis Hastert. His campaign committee filed a Statement of Organization with the Commission on June 19, 2009.

According to the *Daily Herald*, Ethan Hastert's campaign was "overseen" by Burnham Strategies Group LLC, a professional campaign and communications consulting firm. *Daily Herald*, 7/21/09. Burnham Strategies was founded by Brad Hahn and David From, two former staffers to former-Speaker Hastert. *Daily Herald*, 7/21/09. In July of 2009, the *Daily Herald* reported that Burnham Strategies' and others' "firepower has netted Ethan Hastert about \$87,000 in campaign contributions" to date. *Daily Herald*, 7/21/09. In a subsequent article, the *Daily Herald* reported that, while Burnham Strategies had initially thought that it would help run

Hastert's campaign, it ultimately did not. However, one of the firm's partners, Hahn, did help Hastert write a news release and acted as a media contact for the campaign, fielding a couple of media calls. *Daily Herald*, 1/21/10.

Despite this work, Ethan Hastert does not appear to have paid Burnham Strategies for its services. His congressional campaign has filed three quarterly campaign finance statements; Burnham Strategies has not appeared on any of these statements. See Federal Election Commission, www.fec.gov, accessed 1/29/10. According to the *Daily Herald*, the Hastert campaign has no plans to report Burnham Strategies' assistance to the FEC. *Daily Herald*, 1/21/10.

Another article, published in December 2009 by *Politico*, recently reported that, as a former Speaker of the House of Representatives, former-Speaker Hastert maintains an office in Yorkville, Illinois at taxpayer expense. *Politico*, 12/21/09. He receives nearly \$40,000 a month in benefits from the federal government, including an office, cell phone, staff, and a leased SUV. Since March 2008, former-Speaker Hastert's taxpayer-funded office has hired Burnham Strategies about \$2,000 per month to handle communications for him. *Daily Herald*, 1/21/10; House Chief Administrative Officer's Statement of Disbursements of the House, January 1, 2008 – September 30, 2009. As of September 30, 2009, Burnham Strategies had been paid \$30,000 by former-Speaker Hastert. *Politico*, 12/21/09.

B. LEGAL ARGUMENT

1. Legal Background

The Federal Election Campaign Act ("Act") requires that political committees report all contributions and expenditures to the Commission. 2 U.S.C. § 434. The Act defines "contribution" broadly, as including "any gift, subscription, loan, advance, or deposit of money

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or anything of value made by any person for the purpose of influencing any election for Federal office" or "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." *Id.* § 431(8)(A). Under Commission rules, "the provision of goods or services without charge or at a charge that is less than the usual and normal charge . . . is a contribution." 11 C.F.R. § 100.52.

The Act also limits the amount of money that any person may contribute to Federal candidates and political committees. 2 U.S.C. § 441n(a). It is illegal for any person to contribute, and for any candidate to receive, contributions to candidates in excess of \$2,400 per election.¹ *Id.* § 441a(a)(1).

2. Hastert Has Failed to Properly Report Contributions.

The facts as described in the *Daily Herald* articles indicate that Ethan Hastert may have violated the Act by failing to properly report contributions or expenditures to the Commission. The *Daily Herald* initially reported that Burnham Strategies was "overseeing" Ethan Hastert's campaign and that, because of the services of the firm and others, the campaign had raised around \$87,000. In a subsequent report, the *Daily Herald* reported that, while Burnham Strategies originally thought that they would help run Hastert's campaign, it ultimately did not. However, one of the firm's partners did provide communications services for the campaign, writing a press release and fielding media calls. These services were not performed by the partner individually as a volunteer, as they were made in contemplation of Burnham Strategies being retained by Hastert to manage the campaign. By accepting Burnham Strategies' services at less than the normal and usual charge for its services, Hastert received an in-kind contribution

¹ Multicandidate political committees may make contributions of up to \$5,000 per election. 2 U.S.C. § 441a(a)(2).

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from the firm, 11 C.F.R. § 100.52(d), and should have reported it as a contribution and as a disbursement to the Commission. To date, he has not done so.

Further, the *Politico* article states that former-Speaker Hastert retained Burnham Strategies to perform communications services, paying the firm \$2,000 per month. If the former-Speaker paid Burnham Strategies to perform communications services for his son's campaign as part of this arrangement, these payments are an in-kind contribution from father to son² that should have been reported to the Commission. See 2 U.S.C. § 431(8)(A)(ii).

3. Hastert May Have Accepted Excessive Contributions

If Burnham Strategies provided campaign management and fundraising services at less than the normal and usual charge, then it has made a contribution to Ethan Hastert. To the extent that the value of the services and related costs incurred by Burnham Strategies exceeded \$2,400,³ Burnham Strategies has made – and Ethan Hastert has received – an excessive contribution.⁴ If former-Speaker Hastert retained Burnham Strategies to perform services for his son's campaign, he may have made an excessive contribution: as reported by *Politico*, his office has paid Burnham Strategies \$30,000 for its services, which is well beyond former-Speaker Hastert's \$2,400 contribution limit.

C. REQUESTED ACTION

As we have shown, the articles cited herein demonstrate that Respondent has violated the Federal Election Campaign Act. We respectfully request the Commission to investigate these

² If former-Speaker Hastert used appropriated funds to pay Burnham Strategies to work for his son's campaign, it would be a contribution from the former Speaker personally and not from the federal government, as the payments were not authorized by the federal government.

³ The Illinois primary election will be held on February 2, 2010. As a general rule, a candidate committee may not receive an in-kind contribution for any election other than the immediately pending one. See 11 C.F.R. §§ 102.9(e), 104.13(a).

⁴ If Burnham Strategies Group LLC has elected to be treated as a corporation by the Internal Revenue Service, then it may not make any contributions to Ethan Hastert, and an in-kind contribution of any amount would be illegal. See *id.* § 110.1(g)(3).

violations. Should the Commission determine that Respondent has violated the Act, we request that he be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

Jon Al Jahn

SUBSCRIBED AND SWORN to before me this 2 day of February, 2010.

Betty J. Lievens
Notary Public

My Commission Expires:

10/12/11

